

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

LEWIS R. FRANK, individually and in his capacity
as Trustee for the Florence Law Irrevocable Trust dtd
1/24/05; HOWARD KLEE; and FLORENCE LAW
IRREVOCABLE TRUST DTD 1/24/05,

Defendants.

Adv. Pro. No. 10-04759 (SMB)

NOTICE OF MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 1, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On April 17, 2014 Defendants Lewis R. Frank and Francis Law Irrevocable Trust dtd 1/24/05 filed a motion to dismiss this adversary proceeding [Dkt. No. 43] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

On July 25, 2014, the Trustee filed with this Court the Notice of Mediation Referral [Dkt. No. 46], pursuant to Paragraph 2D of the Avoidance Procedures, which specifies that upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

Through this Notice of Mediator Selection, and pursuant to the Avoidance Procedures and the Mediation Order, made applicable to the Parties upon the filing of the Notice of Mediation Referral, the Parties hereby mutually select from the Mediation Register Melanie Cyganowski, from the law firm of Otterbourg, Steindler, Houston & Rosen, P.C., to act as

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Mediator in this matter. The Parties further agree to contact Ms. Cyganowski as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person's law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

Dated: New York, New York

August 18, 2014

Of Counsel:

Baker & Hostetler LLP

811 Main, Suite 1100

Houston, Texas 77002

Telephone: (713)751-1600

Facsimile: (713)751-1717

Dean D. Hunt

Email: dhunt@bakerlaw.com

Farrell A. Hochmuth

Email: fhochmuth@bakerlaw.com

/s/ Nicholas J. Cremona

Baker & Hostetler LLP

45 Rockefeller Plaza

New York, NY 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

e-mail: dsheehand@bakerlaw.com

Marc E. Hirschfield

e-mail: mhirschfield@bakerlaw.com

Nicholas J. Cremona

e-mail: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

/s/Parvin K. Aminolroaya

Seeger Weiss LLP

77 Water Street, 26th Floor

New York, New York 10005

Telephone: (212) 584-0700

Facsimile: (212) 584-0799

Stephen A. Weiss

Email: sweiss@seegerweiss.com

Parvin K. Aminolroaya

Email: paminolroaya@seegerweiss.com

*Attorneys for Defendants Lewis R. Frank and
Florence Law Irrevocable Trust dtd 1/24/05*